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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,032	08/16/2001	Hans-Jurgen Frase	V0-536	3687

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT


PAPER NUMBER

3635

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary	Application No. 09/856,032	Applicant(s) HANS-JURGEN FRASE ET AL.	
	Examiner YVONNE M. HORTON	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 identifies “sealing elements arranged in joints between the individual elements” and further details that the “sealing elements a arranged in a central area”. It is not clear with respect to what are the “sealing elements” are arranged “centrally with?

Further, claim 1 identifies “sealing elements arranged in joints between the individual elements” and further details that the “sealing elements a arranged in a central area” and “arranged laterally therefrom high-temperature seals (2.6)...”. This is confusing in that first of all the claim firmly details the seal as being located between the individual elements. How are the seals located between the individual elements and either centrally of “something” and/or laterally of itself (a seal 2.6). Until further clarification, the claims are being read as the seals being disposed between the individual elements. Clarification is required.

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Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1,8 and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,455,801 to MERRITT in view US Patent #4,099,355 to STRUNK and JP 10002040. MERRITT discloses the use of a secure room (10) including side walls (16) with a sealing door (26), a floor (20) enclosed by the side walls (16), corner elements (22), and a ceiling (18); wherein each one of the side walls (16), the floor (20) and the ceiling (18) are individual elements, column 1, lines 53-55, consisting of outer layers (36) and at least two inner layers (30,32,34) assembled by connecting elements (40,41,44) to form an module. The layer (36) of MERRITT is stainless steel, column 1, line 65; and the layers (30,32,34) are urethane foamed plastic, expanded metal, and plywood, column 1, lines 60-64, respectively. Layers (36) and (32) are "at least two layers" which inherently exhibit fireproofing characteristics. Although MERRITT, column 2, lines 34-38, discloses the use of a flexible vinyl seal between each panel, he does not specify whether his seal is fireproof. MERRITT discloses the basic claimed secure room except for the use of a fire-protective sealing member. STRUNK teaches that is known in the art to provide a fire-protective sealing member (8) between adjacent panel members (2). Expanding sealing members for fire-protection are old and very well known in the art. JP 10002040 teaches the use of an expanding sealing member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the secure room of

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MERRITT with the sealing members of STRUNK and JP 10002040 in order to more securely joined adjacent member while also protecting the room from fire inhibiting an interior thereof.

Regarding claims 8 and 9, the secure room of MERRITT further includes a sealing groove (colored red in the attachment provided with the previous Office Action dated 3/18/03) into which the sealing elements of STRUNK and JP 10002040 would be placed, and the individual elements (16,18,20,22) includes connecting tongues (T), see the marked attachment from the previous Office Action dated 3/18/03.

5. Claims 2-4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,455,801 to MERRITT, as modified by US Patent #4,099,355 to STRUNK and JP 10002040 as applied to claim 1 above, and further in view of US Patent #6,293,069 to MONDA et al.

As detailed above, and in reference to claims 2 and 4, MERRITT discloses a secure room (10) and further details the use of a sealing groove (colored red in the attachment provided with the previous Office Action dated 3/18/03) into which the sealing elements of STRUNK and JP 10002040 would be placed, and the individual elements (16,18,20,22) includes connecting tongues (T), see the marked attachment from the previous Office Action dated 3/18/03.

MERRITT, as modified by STRUNK and JP 10002040, discloses the basic claimed secure room except for the use of a sealing tape. MERRITT discloses the use of a sealing strip (40,46); however he is not explicit as to whether his strip is tape or not. MONDA et al. teaches the use of a sealing tape (16) and sealing material (22,23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the secure room of MERRITT, as modified by STRUNK and

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JP 10002040, with the sealing tape and sealing material of MONDA et al. in order to manufacture a secure room that is less costly and that will also prevent the spread of fire therethrough. The inclusion of MONDA et al. would be less costly because tapes are less expensive than the use of metal or plastic sealing strips.

Allowable Subject Matter

6. Claims 5-6 remain as being allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Allowance is held in abeyance until receipt of claims in conformance with 35 USC 112.

7. Claims 10-12 are allowed.

Response to Arguments

8. Applicant's arguments filed 6/18/03 have been fully considered but they are not persuasive.

In response to the applicant's argument that the ceiling of MERRITT does not consist of individual plate elements, clearly in column 1, lines 52-55, MERRITT details that not only his ceiling member, but his walls and floor members are formed from a plurality of panels (14).

Regarding the applicant's argument that the individual elements are not comprised of at least two fireproof layers, clearly the panel members of MERRITT have a stainless steel outer

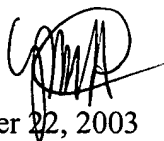
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layer and a metal mesh inner layer. Both stainless steel and metal mesh are very well known in the art for exhibiting fireproofing characteristics.

In response to the applicant's argument that the sealing member is not located centrally and laterally, the claim is being rejected under 35 USC 112 for indefiniteness because it is not clear whether the seal is between or located centrally and laterally. If the seal is centrally and laterally the claim does not define what the seal is located centrally or laterally with respect to? Therefor, until further clarification, the claims have been read as the seal being disposed between the individual members.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



September 22, 2003